

REMARKS/ARGUMENTS

Claims 1, 7 and 9-12 are pending in the instant application. Claim 12 is objected to because of an informality. Claim 12 further stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject which applicant regards as the invention. Claims 1, 7, 9-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Klaveness et al. (US6,264,914) in view of Linder et al. (US5,688,487). The following remarks are believed to be fully responsive to the Office Action.

Claim objection – claim 12: Applicants have amended claim 12 to include a period after the sentence. The objection is now respectfully traversed.

REJECTION UNDER U.S.C. § 112 SHOULD BE WITHDRAWN

Claim 12 has been amended by deleting the first two formulas, which were duplicates of each other. Applicants agree that these are not commensurate in scope with claim 1 as amended September 8, 2009, and the objection has been obviated by the deletion.

REJECTION UNDER 35 USC § 103 SHOULD BE WITHDRAWN

Claims 1, 7, 9-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Klaveness et al. (US 6,264,914) in view of Linder et al. (US5,688,487).

Klaveness et al. discloses compositions of formula V-L-R, where V is an organic group having binding affinity for an angiotensin II receptor site, L is a linker moiety, and R is a moiety detectable in *in vivo* imaging. Klaveness does not disclose compounds of formula I wherein Z is a chelating agent of formula e as claimed by the instant application.

Linder et al discloses ligands and metal complexes of such ligands which are linked to a hypoxia localizing moiety, and wherein the complex has permeability through cell membranes greater than that of ^{14}C -succrose. The compounds of Linder et al. do not have affinity for Angiotensin II receptors. The ligands (chelating agents) of Linder are hence linked to very different moieties from those of the present invention (Losartan, Valsartan, Candesartan and Eprosartan), and the compounds are used for a very different purpose from the compounds of the present invention. There is hence no motivation for the skilled man to select Linder as a starting point for identification of appropriate reporters.

Further, Linder suggests a large group of ligands, presented by several formulas with many options for various functions. One of many examples of ligands that can be linked to a hypoxia localizing moiety is formula Ia. This has five different possible linking sites (position of R groups). The R-groups of the $(\text{CRR})_m$ function of formula Ia is one possible linking site. In column 18 it is stated that preferred linking groups are alkyl, oxa-alkyl, hydroxyalkyl, hydroxyalkoxy, alkenyl, arylalkyl, arylalkylamide, alkylamide, alkylamine and (alkylamine)alkyl. Further more specific groups are highlighted as preferred linking groups, and this preferred group does not include alkylamine. With this vast group of different ligands, different linking sites, and different linking groups, there is no motivation to the

skilled man to select a specific ligand of Linder (formula Ia) and modify this to the specific chelating agent of Formula e of the instant invention and combine with the teaching of Klaveness.

In addition, Applicants respectfully submit that an argument that the combination of the cited references properly addresses all limitations of the instant claims can only be made with the benefit of application of hindsight.

Neither Klaveness nor Linder correct the deficiencies of the other. Furthermore, neither Klaveness nor Linder, taken either singly or together, may be combined so as to render the instant invention obvious. Applicants respectfully submit that claim 1, 7, 9-12 are patentably distinct over the combination of Klaveness et al and Linder et al. Reconsideration and withdrawal of the rejection are respectfully requested.

THE DOUBLE PATENTING OBJECTION SHOULD BE WITHDRAWN

Claims 1, 7 and 9-11 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of US 6,264,914 (Klaveness) in view of Linder (5,688,487). The rejection is respectfully traversed. As outlined in the paragraphs above (USC § 103) the instant invention and the invention of Klaveness are patentably distinct as Klaveness does not disclose or claim compounds of formula I wherein Z is a chelating agent of Formula e as claimed by the instant application. Applicant respectfully disagrees that it would be obvious to substitute the general reporter of

Klaveness with the chelating agent of Formula e, as Linder does not motivate for selecting such specific chelating agent. Hence, Applicant respectfully submits that the inventions are patentably distinct and not obvious variants of each other.

Claims 1, 7 and 9-11 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of US 6,921,525 in view of Linder et al. The rejection is respectfully traversed. The US 6,921,525 patent is a member of the same patent family as US 6,264,914 (Klaveness) already discussed. As outlined in the paragraphs above (USC § 103) the instant invention and the invention of Klaveness are patentably distinct, and US 6,921,525 does not disclose or claim (claims 1-10) compounds of formula I wherein Z is a chelating agent of Formula e as claimed by the instant application. Applicants respectfully disagree that it would be obvious to substitute the general reporter of Klaveness with the chelating agent of Formula e, as Linder does not motivate for selecting such specific chelating agent. Hence, Applicants respectfully submit that the inventions are patentably distinct and not obvious variants of each other.

Claims 1, 7 and 9-11 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of US 7,182,934 in view of Linder et al. The rejection is respectfully traversed. The US 7,182,934 patent is a member of the same patent family as US 6,264,914 (Klaveness) already discussed. As outlined in the paragraphs above (USC § 103) the instant invention and the invention of Klaveness are patentably distinct, and US 7,182,934 does not disclose or claim (claims 1-5) compounds of formula I wherein Z is a chelating agent of Formula e as claimed by the instant application.

Applicant respectfully disagrees that it would be obvious to substitute the general reporter of Klaveness with the chelating agent of Formula e, as Linder does not motivate for selecting such specific chelating agent. Hence, Applicant respectfully submits that the inventions are patentably distinct and not obvious variants of each other.

Claims 1, 7 and 9-11 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims US7,431,914 of the same applicant. Applicant respectfully submits that this rejection stands obviated by the filing of a terminal disclaimer of the cited reference once the claims are in condition for allowance. Reconsideration and withdrawal of the rejection are respectfully requested.

The Examiner is invited to telephone the undersigned in order to resolve any issues that might arise and to promote the efficient examination of the current application.

Respectfully submitted,

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